



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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ZBA 91-10
Petition of John and Nancy Kunis
42 Oxford Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, February 28, 1991 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) of the Town Hall, 525 Washington Street, Wellesley, on the petition of JOHN AND NANCY KUNIS requesting a variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to allow construction of an addition to their existing nonconforming porch at their nonconforming dwelling at 42 OXFORD ROAD and the corner of WINGATE ROAD, in a Single Residence District. Said addition would be approximately 6 feet by 20 feet 4 inches and would have less than the required front setback from WINGATE ROAD.

On February 11, 1991, the petitioners filed a request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing were John and Nancy Kunis. Mr. Kunis stated that they had recently put an addition onto the house extending 6 feet onto the concrete slab which had been the porch foundation. They would now like to recoup the 6 feet by extending the remaining 2 feet of the porch another 6 feet into the yard. The porch would then encroach about 2 feet into the required setback from Wingate Road in a direct line with the existing house. The porch would be roofed and screened.

The Board noted that a variance had been granted to bring the previous porch into conformance with the Zoning Bylaw, and recommended jogging the porch addition to maintain the setback requirement, as it has not been Board policy to grant variances for further encroachment.

No other person present had any comment on the petition.

Statement of Facts

The nonconforming dwelling is located at 42 Oxford Road, in a Single Residence District, on a 10,162 square foot lot. The right rear corner of the existing porch has a minimum front yard clearance of 29.27 feet from Wingate Road and a minimum left side yard clearance of 19.66 feet.

In September, 1984, the Board of Appeals issued a variance to bring the existing nonconforming dwelling into conformance (ZBA 84-52). The house was constructed in the 1950's and the porch in 1973. When the previous owners were selling the property to the Kunises, they discovered it was not in compliance with the Zoning Bylaw, and applied for the variance.

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On November 26, 1990, the Kunises were issued a building permit to extend their family room into a portion of the porch, leaving a porch which is 2 feet by 20 feet 4 inches. They are now requesting a variance to construct an addition to the porch, approximately 6 feet by 20 feet 4 inches, which would leave a minimum front yard clearance of 27.4 feet from Wingate Road, the requirement being 30 feet.

A Plot Plan dated February 1, 1991, drawn by Stephen P. DesRoche, Registered Land Surveyor; construction drawings and elevations drawn by Charles Avery, Inc.; and photographs were submitted.

The Planning Board, on February 26, 1991, voted to recommend that the variance request be denied based on the further proposed encroachment into the inadequate front yard setback area.

Decision

This Authority has made a careful study of the evidence presented. The subject house does not conform to the present Zoning Bylaws as noted in the foregoing Statement of Facts.

Variances may only be granted by the Permit Granting Authority once they have found any or all of the following (Section XXIV-D 1. as quoted from the Zoning Bylaw):

- "1. ...
 - a. Literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant owing to circumstances relating to: i) soil conditions, ii) shape, or iii) topography of such land or structures, especially affecting such land or structures but not generally affecting the zoning district in which it is located; and the hardship shall not have been self-created; and
 - b. Desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of this Zoning Bylaw."

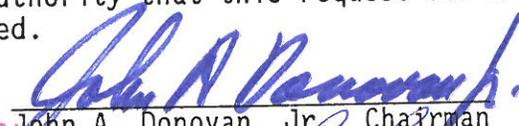
This Authority fails to find "substantial hardship" within the meaning of Section XXIV-D of the Zoning Bylaw; and is of the opinion that any hardship presently existing has been self-created.

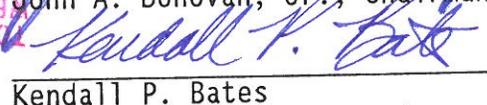
Therefore, it is the unanimous opinion of this Authority that this request for a variance be denied, and this petition is dismissed.

APPEALS FROM THIS DECISION, IF ANY,
SHALL BE MADE PURSUANT TO GENERAL
LAWS, CHAPTER 40A, SECTION 17, AND
SHALL BE FILED WITHIN 20 DAYS AFTER
THE DATE OF FILING OF THIS DECISION
IN THE OFFICE OF THE TOWN CLERK.

cc: Planning Board
Inspector of Buildings

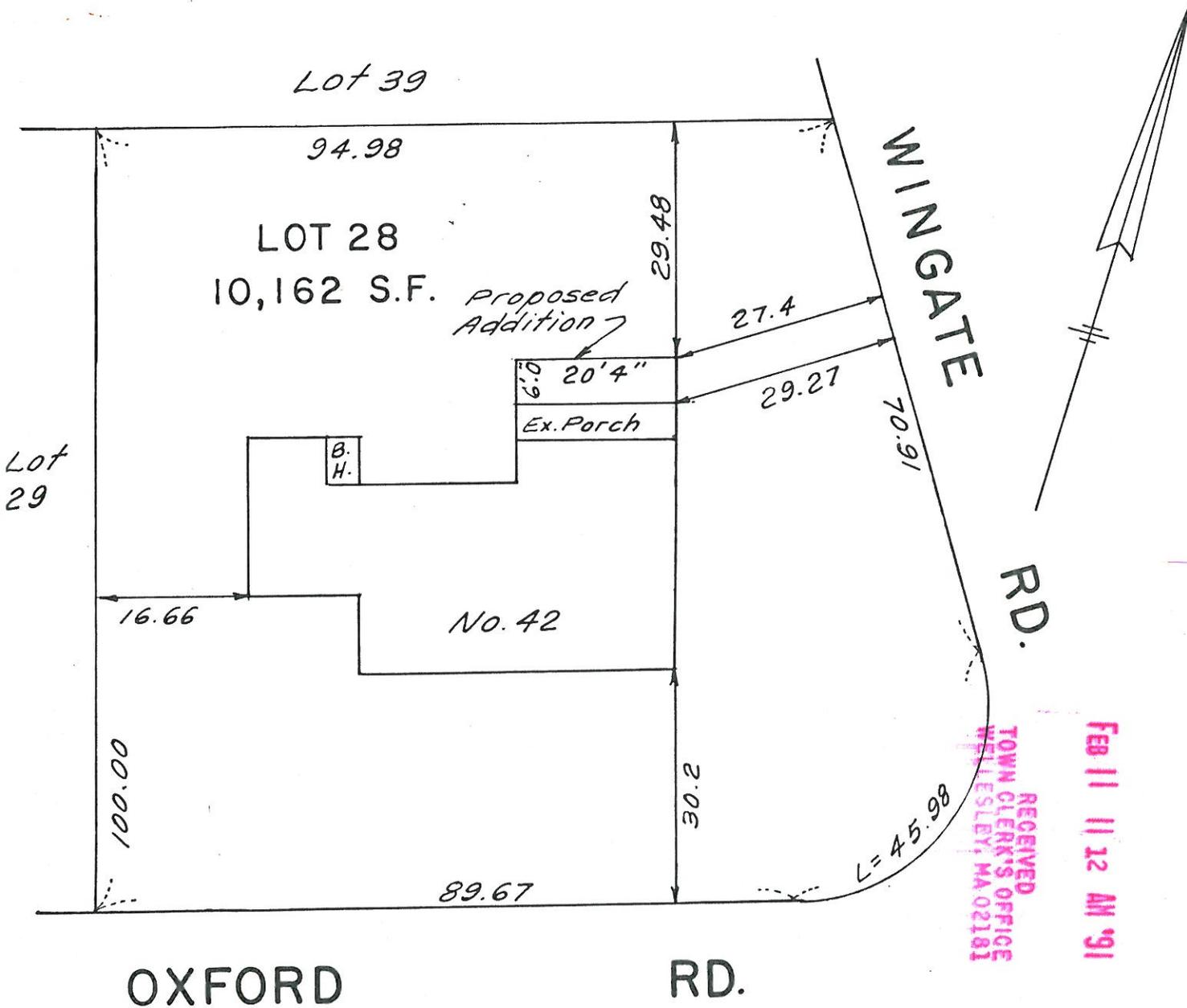
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John A. Donovan, Jr., Chairman


Kendall P. Bates


William E. Polletta

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Exist & Prop. Structures = 1,574.4 S.F.
 ÷ by Area of Lot = 10,162 S.F.
 Area Coverage = 11.74%

PLAN OF LAND IN
 WELLESLEY, MASS.

SHOWING PROPOSED ADDITION AT NO 42 OXFORD RD.

FEBRUARY 1, 1991
 SCALE: 1" = 20'

STEPHEN P. DesROCHE
 REG. LAND SURVEYOR



Stephen P. DesRoche